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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 00-40015-02- DLJ
)	
Plaintiff,)	STIPULATION AND ORDER FOR
)	SENTENCING MODIFICATION UNDER
v.)	18 U.S.C. § 3582(c)(2)
)	
DESEAN BROWN,)	
)	
Defendant.)	

IT IS HEREBY STIPULATED AND AGREED, by and between the parties acting
through their respective counsel, that:

1. The Court has indicated that it will make its own motion for a modification of the
defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).

2. Defendant's original guideline calculation was as follows:

Total Offense Level 29

Criminal History Category II

Sentencing range of 91 to 121 months' imprisonment

3. Defendant was sentenced on November 21, 2000 to 109 months imprisonment.

STIPULATION FOR SENTENCING
MODIFICATION UNDER 18 U.S.C. § 3582(c)(2)
CR 00-40015 DLJ

1 4. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. § 3582(c)
2 and USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission*
3 *Guidelines Manual*

4 5. Defendant's revised guideline calculation is as follows:

5 Total Offense Level 27

6 Criminal History Category II

7 Sentencing range of 78 to 97 months imprisonment

8 6. According to the modified pre-sentence report, defendant's conduct while imprisoned
9 reveals that he did not work due to medical restrictions. He was not subject to any incident
10 reports while in custody and he was not a management problem.

11 7. Based upon the foregoing, the parties hereby stipulate that a sentence of 87 months is
12 appropriate in this matter.

13 8. Defendant's current projected release date is July 4, 2008.

14 9. The parties further stipulate that all other aspects of the original judgment order including
15 the length of term of supervised release, all conditions of supervision, fines, restitution, and
16 special assessment remain as previously imposed.

17 10. Defendant stipulates that he waives and does not request a hearing in this matter
18 pursuant to Fed. R. Crim. P. 43, 18 U.S.C. § 3582(c)(2); *United States v. Booker*, 543 U.S. 220
19 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d
20 1167 (9th Cir. 2007).

21 11. Defendant waives his right to appeal the district court's sentence.

22 12. Accordingly, the parties agree and stipulate that an amended judgment may be entered
23 by the Court in accordance with this stipulation pursuant to 18 U.S.C. § 3582(c) and USSG §
24 1B1.10(c), Amendment 706 of the *United States Sentencing Commission Guidelines Manual*.

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1 IT IS SO STIPULATED:
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3 DATED: March 5, 2008

Respectfully submitted,

4 JOSEPH P. RUSSONIELLO
5 United States Attorney

6 /S/

7 _____
BRIAN J. STRETCH
8 Assistant United States Attorney

9 /S/

10 DATED: March 5, 2008

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MICHAEL THORMAN
12 Attorney for defendant Desean Brown
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1 **ORDER**

2 Based upon the stipulation of the parties, and for good cause shown, IT IS HEREBY
3 ORDERED that:

4 1. The Court is making its own motion for a modification of the defendant's sentence
5 pursuant to 18 U.S.C. § 3582(c)(2)

6 2. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. §
7 3582(c) and USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission*
8 *Guidelines Manual*;

9 3. Defendant waived his right to a hearing in this matter pursuant to Fed. R. Crim. P. 43,
10 18 U.S.C. § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v. United*
11 *States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9th Cir. 2007);

12 4. Defendant waived his right to appeal the district court's sentence.

13 5. Defendant's revised guideline calculation under USSG § 1B1.10(c), Amendment 706
14 of the *United States Sentencing Commission Guidelines Manual* is:

15 Total Offense Level 27

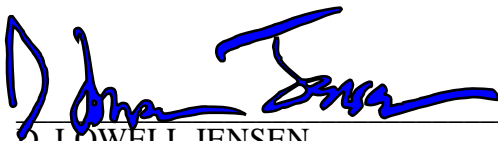
16 Criminal History Category II

17 Sentencing range of 78 to 97 months imprisonment

18 6. The appropriate sentence in this matter is 87 months of imprisonment. All other
19 aspects of the original judgment order including the length of term of supervised release, all
20 conditions of supervision, fines, restitution, and special assessment remain as previously
21 imposed

22 7. An amended judgment shall be entered by the Court in accordance with the parties
23 stipulation pursuant to 18 U.S.C. § 3582(c) and USSG § 1B1.10(c), Amendment 706 of the
24 *United States Sentencing Commission Guidelines Manual*.

25
26 DATED: March 7, 2008

27 
D. LOWELL JENSEN
United States District Court Judge